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West Virginia Legislature's  
Office of Reference & Information

# Interim Highlights

## Agriculture & Agri-business

The Committee heard presentations on various aspects of beekeeping from apiarists in a follow-up to last year's report. This was another trying season with honey production, the worst it has ever been (as long as records have been kept) across the country. This can be attributed to a food shortage for the bees, resulting from off-kilter season changes last year. It stayed warmer longer, which kept the bees from going dormant, causing them to need food past the point it was efficient for them. There was also a late freeze this spring, which killed off a great deal of the blooming flowers upon which the bees feed.

The apiarists have been able to identify every cause of death for the bees (which are mostly weather related), none of which have been linked by scientific evidence to cell phone towers—a rumor which has become increasingly pervasive. Lack of food also leads to a susceptibility to disease that might otherwise be avoided by healthier bees.

The apiarists told the committee that theirs is an aging field. It is becoming harder to make a living as a beekeeper and suggested the possibility of government subsidies, such as those given to other farmers in similar situations as themselves.

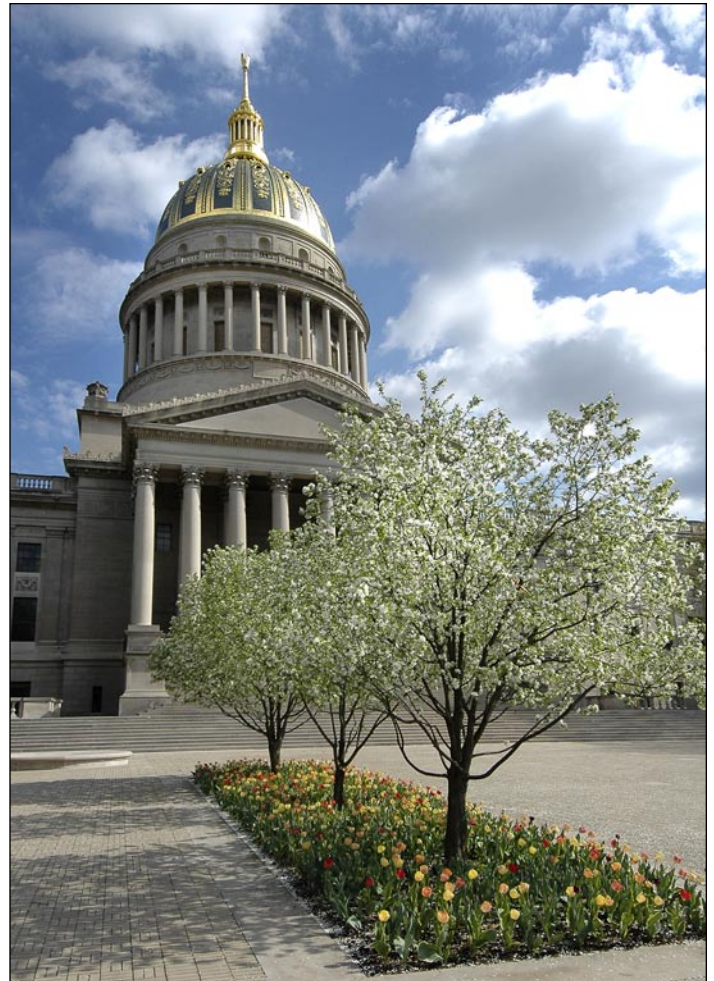
All the presenters stressed the use of environment-friendly pesticides and for those using them to read the instructions on the label (which many people do not) and to not use them until late in the evening.

## Broadband - Select Committee E

The committee heard from the state's Chief Technology Officer (CTO) about the Governor's plans for statewide broadband deployment. The Governor's current goal is for full deployment by 2010. The CTO said this means not just statewide availability, but also accessibility in terms of costs.

### Interim Meeting Schedule & Agendas

Please visit West Virginia Legislature's Web site:  
<http://www.legis.state.wv.us/committees/interims/intcomsched.cfm>



The speaker said West Virginia is near the bottom of the country in several technology-related categories. He cited studies that placed the state 45th in broadband deployment, 46th in technology in the home, 47th in both e-government transactions and local and community online presence, and 50th in desirability to technology companies.

Part of this poor performance is because of the state's unique challenges, the CTO said. Mountainous terrain makes placing underground wires and cellular towers more costly. The state's dispersed population makes it difficult to focus on smaller geographic areas. Socioeconomic forces are also at play, as many West Virginians are too poor to afford the costs associated with computers and broadband. An aging population also lowers the demand for technology and a dated telecommunications infrastructure makes upgrading expensive. The state's strained financial situation makes



finding revenue to invest in technology more difficult. Finally, a seeming reluctance to change also makes it difficult to drum up support and demand for broadband and other modern technologies.

However, according to the speaker, these factors have not stopped the state from forming partnerships with private industry to help the situation. Already, he said, the state has made agreements with Cisco, Verizon and Microsoft. In addition, the state is searching for a portal provider that will allow more government transactions to take place online.

The CTO outlined several keys to improving the state's technological status. The first is expanding broadband and cellular service availability. This requires more accurate mapping of current services, he said, to see where there are gaps. Expansions could be achieved by streamlining the permitting process and by giving telecommunication companies extra incentives to extend service areas. Other possibilities include the implementation of non-traditional broadband services like broadband over power lines, WiMAX (which uses wide-scale wireless communication) and satellite.

Another key to success, he said, is to increase demand for broadband service and technology in the home. This includes providing more e-government transactions and providing refurbishing programs that provide low-cost computers to schools and citizens.

Education of government leaders and the citizenry is also important, the CTO said. This includes marketing campaigns and community training programs. Getting local and county governments online would also help with this process. He emphasized that every county and municipality should have a Web site. Possibilities include involving students at local high schools in the creation of such sites, providing education for the students and an online presence for the community.

The CTO also fielded several questions about the Governor's recent veto of a bill that aimed to improve the state's broadband availability. The technology officer explained that the Governor's office felt that much of what was contained in the bill could be attained without legislation and that signing the bill would have created an unnecessary administrative burden.

## Children, Juveniles & Other Issues, Select Committee A

According to a spokesperson from the Bureau for Children and Families, the Registry and Child Protection Unit is "up and running."

In information provided to the committee, the Child Protection Act of 2006 called for the formation of a special unit of officers within the State Police to work directly with child abuse and neglect investigation involving the most serious allegations.

While the information is available, there is a problem with "technical compatibility" but the technical problems should be ironed out within a month, the spokesperson said.

Because the measure called for cooperation among the multi-disciplinary treatment teams (MDTs) with local prosecutors, inadequate staffing among counties limits the intent of the plan.

In addition, the obligations of the prosecutors are the same, but caseloads are over-whelming.

In fact, according to a court ruling, prosecutors are supposed to remain out of the system and be independent during an investigatory nature. If an investigation is subpoenaed, then prosecutors are to withdraw. They are to remain independent in discovery.

According to the authority, various legal cases and rules prohibit as much participation as lawmakers would like to see. Assistant prosecutors usually focus on abuse and neglect cases.

Overall, prosecutors would like to meet with MDTs, the limited time they have available restricts those parties from doing so, according to the Assistant Prosecutor from Kanawha County.

## Economic Development, Joint Committee on & Forest Management Review Commission (Joint Meeting)

Members of the two committees heard a joint report regarding the economic impact of managed timberlands in West Virginia. Managed timberlands are lots of 10 acres or more whose owners have agreed to a management plan to reduce over-cutting. Those owners already qualify for tax breaks for participating in the program. About 98 percent of the landowners involved in the program have lots of less than 1,000 acres, the committee was told by a Division of Forestry representative.

**Can't Find Your Committee?**  
Please refer to the index on page 12.



West Virginia is the third most forested state in the country, with about 78 percent of its land covered by trees. Members were told that hunting and fishing is a potential billion-dollar industry for West Virginia but there needs to be greater access to private land to reap the full rewards.

A representative from the Division of Natural Resources asked the Legislature to offer incentives ranging from tax breaks to protection from lawsuits for private owners of so-called managed timberlands who open their property for public recreational use. However, the representative stated, the growth of recreational tourism is hampered by a limitation on what land is accessible to the public. People who come to the state for hunting and fishing in particular do not want to be crowded by other enthusiasts.

One option to increase available land could be to expand the current protections for landowners already granted to landowners who open their property to the public with protection from lawsuits. The representative also asked lawmakers to consider giving landowners the ability to charge fees for access to their property.

### Education - Joint Standing Committee on

A presentation was given titled, "Taking Career and Technical Education to the Next Level in West Virginia." This presentation came from SCR 24 in the 2006 Regular Session requesting that the Joint Committee on Government and Finance committee study vocational, technical and adult education.

The study focused on responses given from surveys from Kentucky, North Carolina, South Carolina and Virginia about their career and technical education systems. One hundred and fifty West Virginians were also included in the study and research showed that all students can learn at high levels.

West Virginia does not have a career and technical education program and it was mentioned that this could be the key to West Virginia's future.

Many recommendations were offered during the presentation. Some of these include: provide more funding; make consistent the facilities since consistency is critical to e-learning; develop career pathways as a framework for systematic change; provide more effective responsive workforce training services to businesses and industry and higher level technical skills to students and workers and develop a new model for career counseling, student support and academic advising.

### LOCEA

A West Virginia University Institute of Technology associate gave a report about the long-range implementation plan relating to HB 4690. Confusion was met in the committee regarding whether or not the plan was approved. It was also said the plan legislators agreed upon was still incomplete.

The Chancellor of the Higher Education Policy Commission also gave a report relating transition funding to WVU Tech. Tech will become a region of WVU. Specific emphasis was placed upon engineering. There is currently \$1.8 million in the account, and \$1.4 million more will be added in July. \$2 to \$3 million purchases are going towards updates on lab equipment and teaching tools but have not yet been released.

A report was also given from the Engineering Advisory Committee President for WVU Tech. He outlined that without college life you will not have students. Tech needs to increase enrollment to keep its engineering school. To keep funding and teachers, Tech must improve student life to interest students to enroll.

During the committee's second meeting of the June Interims, a report was given from the Superintendent of the West Virginia Board of Education. He and guests reported about the Reading First Program and its results. \$7 million has gone into the program and 6,440 students have participated. Seventeen percent of those students have disabilities. Those eligible to participate are students in high poverty and those with low reading student achievement.

West Virginia is one of the only states to show significant growth. Students have been reported to be 100 percent improved from this program. There has been a 5 percent increase in student reading and math. West Virginia ranked first in many categories. All states participated plus six U.S. territories.

Questions were raised about the difference poverty places on reading skills versus math skills. Background knowledge was key for both types of curriculum, so it was agreed that both are affected the same way.

The Executive Director of School Building Authority reported the status of Senate Bill 67. Information is being gathered and audits are being returned from schools. Audits are expected to be in by July 1. Thirty-two audits have been completed, 12 have been partially completed and 11 have not been returned.



The bill has five basic critical areas including planning, delaying and communicating. A closed campus is a major area for improving school safety. Forty-six percent, or 179, schools have closed campuses.

Schools are also in the process of being updated to keyless entry. Currently, 112 schools have entry devices to control access to the buildings. It costs approximately \$4,000 per school to install this entry.

## Education Subcommittee A - Public Education

The committee heard from presenters about attempts to make principals more technologically literate as part of the 21st Century Schools initiative.

Spokespersons from the State Board of Education began by saying that there are 1,900 administrators in the state who are an average age of 50-years-old. In order to be a principal, one is required to earn a Masters Degree in one of the state-approved programs.

There will be several principals eligible for retirement, and the largest number of retirees (through 2015, as predicted) will come next year. Eighty principals did not return last year from the year previous (58 of them retired).

There are fewer individuals seeking out the position of principal, mostly, it seems, because the responsibilities have been greatly increased over the years, making the position decreasingly desirable.

School officials were pleased with the results thus far in the West Virginia Institute for 21st Century Leadership, in which principals are given computer training and taught how to keep a blog, among other things, to bring them up to date with current resources available, so they then can make them available to their students. All 55 counties now participate in this program.

## Education Subcommittee C - Public School Finance

The Committee first heard from legislative House and Senate counsel regarding the contents of Senate Bill 541, passed in this year's legislative session. The staff lawyers compared the original version with the enrolled version.

Because of the bill's volume and the numbers of Code cites affected, some areas of concern by some lawmakers were

omitted in the final bill. Counsel noted ideas would continue to be discussed in the interim, such as the calculation of population density as it relates to school transportation. Ideas that did not find their way into the bill will be given further consideration during the next few months.

## Equal Pay Commission

According to a 2003 Government Accountability Office (GAO) study, when occupation, marital status, job tenure, industry and race are accounted for, women still earn 80 cents for every dollar men earn.

According to a study by Finance and Economics professor Mark J. Perry at the Flint campus of the University of Michigan, there are differences between male and female worker pay which are directly related to motherhood, marriage, career choices and time spent working.

The legislative Equal Pay Commission will be looking into all sides of the issue to find, if in fact, there are discriminatory practices occurring within state government.

Initiating the committee's review, an associate professor and director of the Master of Public Administration program at West Virginia University, provided lawmakers with information which indicated that pay disparities between men and women persist in the American workforce despite comparable pay legislation, advocacy and social change.

Working with an assistant professor in the Division of Social Work and Division of Public Administration at WVU, the director of WVU's Master of Public Administration presented the results of various studies, including data received from 18,365 employees in West Virginia state government. The findings noted that women accounted for 85.7 percent of "administrative support" jobs and 30 percent of "officials and administrators". According to the material provided, only 6 percent of all West Virginia government employees earning more than \$50,000 were women.

The university professor listed known reasons for the wage gap to include the "glass ceiling", agency segregation in female dominated jobs and differences in skills education and experience.

The expression "glass ceiling" has been coined to refer to situations where the advancement of a person within an organization is limited. This situation is referred to as a "ceiling" as there is a limitation blocking upward advancement, and "glass" (transparent) because the limitation is not immediately



apparent and is normally an unwritten and unofficial policy. This limitation is normally based upon some form of discrimination, most commonly being gender and race.

Agency segregation was described during the presentation as having “glass walls”. For instance, an agency which promotes caring and support for citizens is most likely to have a large female workforce who become confined inside of glass walls, such as the Department of Health and Human Services as opposed to the male-dominated Department of Transportation.

The committee also heard that differences in education are another known factor in wage gaps.

The conclusions to a variety of studies provided, including findings from WVU’s Public Affairs Reporter, the state should look at three questions: “(1) are West Virginia state government’s women employees concentrated in lower-paid, lower-echelon positions across state agencies, (2) are women concentrated in agencies that provide services and funding for children and the poor and (3) are women under-represented in West Virginia state government administrative/managerial positions?”

The Equal Pay Commission will continue seeking additional input into its studies.

## Finance - Joint Standing Committee on

The committee heard reports from each subcommittee on their findings from this month’s interims. Following, the Secretary of State and her office offered a presentation regarding the existence and use of digital signatures, which will now be available for all government agencies in West Virginia.

This is the first rollout of this technology and means that state agencies that choose to participate will not have to use paper for their contracts and other legal documents.

The Secretary of State’s office was able to obtain the software necessary for this program for free through the ACES program and in so doing, saved West Virginia hundreds of thousands of dollars, allowing this project to be developed at all.

West Virginia is 47th in the nation in electronic government and in the use of technology in government, because the unavailability of electronic signatures has held the state back. The Secretary of State reported she is excited about this development and predicts it will make WV government far more efficient in the way government business is conducted.

## Finance Subcommittee A

Members heard a report regarding House Concurrent Resolution 70, which requests a study on the necessity of additional public defender corporations for the delivery of indigent defense services.

A representative of the West Virginia Public Defender Services (WVPDS) presented an Agency overview to refresh the members on the role and duty of the Public Defenders in West Virginia. Public Defender Corporations operate as non-profit corporations, each with a board of directors. Each Corporation contracts with Public Defender Services annually to handle indigent cases in designated circuits. These corporations employ legal and support staff to handle its caseload. When fully staffed these corporations employ 116 attorneys and 74 staff employees.

There are currently 17 Public Defender Corporations covering 18 judicial circuits and representing 28 counties within West Virginia. They are fully funded by WVPDS, which is responsible for the financial oversight of corporations and their funds, which are dispersed monthly.

The representative cited several problems that stand in the way of success for the Public Defenders Services. First, there is a lack of authority to expand the Public Defender Corporation system. Much of that authority lies with the individual county bar associations. Also, there is currently no statewide governing board to oversee the Defender Services Division. The committee will continue to examine these issues during the interim period.

## Finance Subcommittee B

The director of the West Virginia Board of Risk and Insurance Management (BRIM) fielded questions from the committee related to the insurance coverage of the Morgan County Courthouse that burned down in summer 2006. The committee is studying the issue of county insurance coverage in light of the fact that the courthouse was only insured for \$2 million but will cost more than \$10 million to replace.

The BRIM director explained that 27 counties have property replacement coverage through BRIM. Statewide property and liability premiums total \$4.5 million and are used to cover nearly \$350 million in property value. In the aftermath of the Morgan County fire, the director said BRIM sent letters to the counties it covers to make sure their property is properly insured.



Part of the reason the coverage on the Morgan County courthouse was so low compared to its replacement costs is because the old courthouse was too small for what the county needed, the director said. The replacement building is much larger and much more modern. According to the speaker, the \$2 million coverage was based on the value of the existing property and not on any sort of potential replacement building. BRIM is statutorily required to be actuarially sound, he said, and to have overinsured the Morgan County courthouse for \$10 million would have violated this requirement. For that same reason, the director added, BRIM tries not to underprice premiums, since that too would be actuarially unsound.

A member of the Morgan County Commission also talked to the committee about the courthouse replacement. The commissioner emphasized that what was lost in the fire was not just the courthouse, but also several auxiliary buildings that had been linked to it as the staff of the county government grew. In all, county offices spanned about 22,000 square feet over six buildings, all insured with separate policies totaling about \$4.5 million, he said. The replacement complex will be about 40,000 square feet, with much of the additional space going to accommodating the recently expanded circuit court, the speaker said.

**Finance Subcommittee C**

A representative from the state Tax Department spoke to the committee about the ongoing statewide real property assessment. The speaker told members that since the last statewide assessment in 1995, the assessed value of all real property increased from \$20 billion to \$42 billion.

He also said the value of property in the state has seen double-digit increases the past couple years. From tax year 2005 to tax year 2006, statewide real property values increased 11.3 percent. From tax year 2006 to tax year 2007, the increase was 13.7 percent. However, the speaker reminded the committee that tax revenue does not necessarily increase as assessments increase, since levy rates roll back as property value increases. According to the representative, this does not present a levy funding issue as long as property is taxed at a minimum of 54 percent of its assessed value. The current standard, he said, is 54 percent to 66 percent of assessed value.

**Interim Meeting Schedule & Agendas**  
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**Forest Management Review Commission & Economic Development, Joint Committee on (Joint Meeting)**

*See Economic Development, Joint Commission on and Forest Management Review Commission (Joint Meeting) on page 2-3.*

**Government Operations, Joint Committee on & Government Organization, Joint Standing Committee on (Joint Meeting)**

Lawmakers heard a report from representatives of the Department of Education as well as an official from the Division of Rehabilitation Services regarding the planned downsizing of the Institute Rehabilitation Center and the plans to redirect the work directly into the communities.

Lawmakers were told that this change should provide more efficient help for the disabled at a time when the Division is facing a backlog of 3,500 people on a waiting list. Since 96 percent of their clients are served in the communities it makes more sense to go into the field. Recently, the staff at the Rehab center was cut back from 104 to 65 employees, mostly through attrition and retirement. Committee members were told the Division is trying to do what it can to minimize layoffs.

The representative stated that the center costs \$11.8 million to operate and that only 4 percent of all disabled people in West Virginia are served there. Moreover, the idea of rehabilitation is to groom the disabled for entry into the workforce. It was also mentioned that perhaps the center could be transformed into a facility to treat wounded troops returning from war in the Middle East. The Division has explored that option with some of the state Congressional delegation but learned the idea was saddled with multiple problems, including funding.

The representative stated that one element which has fueled the division's fiscal difficulties has been the failure of the federal government to increase its share of funding for the center the past six or seven years. Because of the rising cost in maintaining the Institute center at full throttle, services to individuals across West Virginia were rolled back. However, federal law insists that anyone enrolled in its program must be given services and that such assistance cannot be interrupted by a lack of funds.

The immediate impact will be on students with developmental disabilities enrolled in such training as janitorial and food service, the representative stated. Of 828 admissions last year, 508 were clients installed at the Institute center for short periods of vocational evaluation. Services provided for the blind and the deaf and driver's education will be maintained.



## Interim Highlights

### Government Organization - Subcommittee A

The Committee heard from the Vice Chair of the Capitol Building Commission regarding Senate Concurrent Resolution 52, which requests a study on the feasibility of constructing covered promenades and ramps for the mobility impaired joining the main building at the capitol to the adjacent wings. This office makes sure that the improvements, repairs, etc., to the Capitol Complex are in line with preserving the historical aspects of the buildings. Its goal is to integrate that aspect while still maintaining the complex as a functioning entity.

The representative reported that the walkways in place were installed in the late 80s, during the period the organization had been “accidentally sunset” and that they did not re-authorize their installation.

The representative recommended that the committee work with General Services for the start of this project. Usually a complete design is submitted to the Building Commission, which they then evaluate as feasible or not. The representative said he has never given a “flat no” to any proposed project. There have been some that needed restructured, but it is his belief that proposals come to the Commission out of need and not frivolity.

The committee next heard from a representative from General Services, who, while discussing the current attempts to make the capitol a more handicap-friendly place, said he did not think that the walkways on the roofs leading to the east and west wings should be used at all. There is, on one roof, a condenser that puts out 208 volts of electricity and also houses several dangerous moving parts and is housed on the roof to keep it away from the general public. The chair of the committee then reminded the members that whether or not there should be a walkway was not their reason for meeting and asked to hear from the General Services architect.

The architect reported that the roofs in question would have to be replaced in the next two years as the sides are starting to pull away from the weather stripping. Roofing technology has advanced considerably since the time these were last updated and will be quite different than the gravel-topped one currently in place. He also said extensive work will need to be done to make the entrances and exits handicap accessible.

**Can't Find Your Committee?**  
Please refer to the index on page 12.

### Government Organization - Subcommittee B

The committee heard a report from a representative of the West Virginia Municipal League regarding Senate Concurrent Resolution 55, which requests a study on ways to provide municipalities the means to satisfy liens. A municipality currently has the authority to send letters to a property owner, condemn the property and/or put a lien on property for unpaid fees, however a municipality does not have the means to satisfy the lien.

The representative stated and reviewed the reasons the Municipal League is pushing the issue of satisfying liens. Oftentimes the inability to collect taxes from landowners creates a situation in which municipalities would like to put liens on properties in order to replace lost revenue due to the absence of B & O taxes. This creates ways to generate new economic ventures after a lien is placed on property.

The representative mentioned that uninhabited and abandoned properties not only have negative aesthetic qualities, but they may be hazardous to the surrounding community and municipalities may condemn and demolish the property, but it cannot obtain reimbursement for the demolition costs. Allowing a municipality to sell the property to satisfy the lien and retain some of the money from the sale would then be a way to help the municipality recover some of the costs incurred.

Next month, a representative from Morgantown will address the committee further as to why this is needed in municipalities, especially in the more urban areas of the state.

### Government Organization - Subcommittee C

The subcommittee heard from counsel about Senate Concurrent Resolution 63, which requests that the committee study the need for regulation of the Professional Employer Organization (PEO) industry. These organizations provide employee-leasing services to small- to medium-sized businesses. These employees typically do paperwork for these businesses, performing duties such as payroll, benefit management, human resources and regulatory compliance. Two bills introduced during the previous regular session – House Bill 2985 and Senate Bill 500 – would have regulated PEOs, but neither made it out of committee. The study resolution, counsel said, was created in response to these bills.

The main area of committee discussion addressed how PEOs should be treated for the purposes of workers' compensation. Under current Workers' Compensation rules,



counsel said, the PEO is considered the employer and is responsible for much of the reporting that goes along with this. According to counsel, the distinction of who is the employer is important in determining workers' compensation rates.

Counsel added that there are other responsibilities that will fall on whoever is considered the employer, such as compliance with current state and federal laws, third party liability and employee training and certification requirements. In addition, counsel said there is the possibility that PEOs could be regulated through the sunrise process, but no application has been filed.

**LOCHHRA**

Members of the commission heard from a representative of the Vermont Department of Disabilities, Aging and Independent Living about how his state was able to provide more in-home care for the elderly and disabled. Specifically, he talked about Act 160, passed by the Vermont General Assembly in 1996. Before the Act, the representative said, Vermont was on pace to spend almost \$178 million in nursing home Medicaid expenses by 2007. The actual amount spent was reduced to \$106 million.

According to the speaker, what Act 160 did was increase the focus on home- and community-based services (HCBS) for Medicaid recipients, thus moving away from nursing home care. He presented the commission with data about the daily cost per person of the different kinds of care. Nursing facilities for people under 65 years old was the most expensive at \$152 per person, while the same care in a HCBS setting required only \$144 per person. In addition, nursing facility care for those over 65 cost about \$119 per person but HCBS care for those same people only cost \$80 a day.

What was somewhat hurting the Vermont program, the speaker said, was the fact that nursing home care under Medicaid is an entitlement, while HCBS was not. The representative told the commission that the state was able to get permission from the federal government to offer HCBS as an equal entitlement. This led to a reduction in the waiting list for HCBS and a decrease in the number of nursing home residents, he said.

The speaker emphasized that the situations in Vermont and West Virginia are different and success in one state does not guarantee success in another. However, he did offer general recommendations based on his own state's experiences.

**Health - Select Committee D**

Committee counsel addressed members about bringing possible partners into their studies on healthcare reform. The list included broader organizations such as the Academy of Health and the American Association of Healthcare Consultants as well as individual consultants who specialize in public healthcare policymaking.

Counsel then took suggestions for what should be included in the request for proposal (RFP) that will be sent out to potential consultants. After discussion about what should or should not appear on the RFP, it was decided that there should be a few areas of focus, including how to balance quality, access and costs. Counsel said that providing a broader RFP would encourage creative responses from the consultants, while a tightly crafted RFP may limit the types of responses.

**Infrastructure - Select Committee C**

The Truck Committee Chairman of the WV Forestry Association spoke about raising the weight limit of trucks to 97,000 pounds and utilizing six-axle trucks. By raising the size of the trucks, fewer trucks would be on the road, reducing the number of accidents. Studies show that it would result in 450 fewer fatalities, 8,000 fewer injuries and 10 million fewer miles driven, according to the speaker.

Currently, U.S. Senate Bill 875 is being introduced to make this a new nationwide law. Mexico, Canada and much of Europe are all over the 96,000-pound limit and use six axle trucks.

In 2003, Senate Bill 583 was passed referring only to coal trucks. The weight limit was increased to 120,000 lbs. This only applies to 15 Southern counties.

Problems in WV are that most county roads cannot hold the extra weight. Bridges would have to be checked for weight limits. Winter would be the most road weary time of the year because of highway maintenance, salt and cindering coupled with massive pressure on a frozen road surface.

A presentation on transportation safety was also given by the highway engineer. Driving up an off ramp or driving off an on-ramp substantiates a large cause of truck accidents and fatalities. There are currently left/right turn signs, wrong way signs, and do-not enter signs on the interstate ramps but they are poorly lit. Many ramps have no lighting so signs are not clearly visible until the last minute.





Wrong-way drivers cause approximately 400 deaths a year in West Virginia. Video detection and flashers are ideas for decreasing this problem but come at a cost of \$9 million to implement.

Another statistic provided by the engineer indicated 30 percent of truck driving fatalities are the result of alcohol usage.

## Legislative Internship Committee

Lawmakers, professors, and internship directors are seeking a variety of options to assist in the recruitment of legislative interns to participate in the 2008 Session.

During the June meetings, a review of the program’s budget was initiated. Advertising, recruitment plans and methods of enhancing notification of the opportunities associated with the program are being addressed to ensure fiscal responsibility.

## Judiciary Subcommittee A

In a follow-up to the May meeting of Judiciary Subcommittee A, the Communications and Legislative Affairs Assistant Secretary of the Department of Health and Human Resources (DHHR) made an effort to indicate the near to impossible task of following the agency’s rules and regulations, most of which are exempt from state legislative rule-making and review. West Virginia’s legislative oversight process, which includes a public comment period, exempts public input when dealing with any type of public assistance programs, such as aged/disabled waivers, ADA, food stamps, etc. However, West Virginia is the only state in the nation that disallows public content regarding public assistance.

Patting a stack of paper over a foot in height, the secretary indicated the contents of the material consisted of a single rule the DHHR was required to follow. According to the state DHHR communications officer, the state could lose federal funding if all requirements contained in the massive rule weren’t followed.

He then went on to tell lawmakers that health rules and policies have been building on one another for years upon years and he doubts anyone in the state or federal agency could claim themselves experts on the contents

Overall, the DHHR and the Secretary of State’s Office (SOS) would like to have available a single link on the SOS website

directing users to a complete listing of all rules filed. Both the DHHR and the SOS would like a numbering system to be applied to the exempt rules so they could be readily identified and that public notice be given prior to a rule taking effect.

During the second leg of the two-hour committee meeting, representatives from business and labor addressed lawmakers regarding HB2346, which did not pass in the recent session. The measure would have prohibited certain employers from meeting and communicating with employees regarding the employer’s political, religious or labor-organizing activities.

The business spokespersons told lawmakers that their organizations were in strong opposition to what they perceived as a “right to work” bill, which is pre-empted by the National Labor Act. Citing a case ruling in the 4th Circuit Court of Appeals, any state statute that undermines the United States Constitution is nullified since the supremacy law kicks into play.

Labor leaders contend a proposed “Worker Freedom Bill” establishes a minimum working condition for all workers that bans forced, mandatory meetings that cover political, religious or other opinions unrelated to the work force. According to the spokespersons from various labor associations, the proposed change in law would prohibit anti-union deliberations during times when employees are attempting to unionize.

## Judiciary Subcommittee B

### State Farm Wineries

Counsel addressed the committee about the issues involved with a pair of recent federal court decisions – *Grahnholm v. Heald* and *Costco v. Hoen*. In those cases, the courts ruled that it was a violation of U.S. Constitution’s Commerce Clause to allow in-state farm wineries to directly ship to consumers but restrict out-of-state wineries from doing the same thing. The Commerce Clause, counsel explained, gives Congress the right to regulate interstate and international trade. Over the years, federal courts have established the converse to that clause, called the Dormant Commerce Clause, which says that states cannot create barriers to trade. The subcommittee has been assigned to study the impact of these cases on West Virginia’s farm wineries.

Counsel provided the committee with some background on the state’s distribution system. West Virginia currently has a three-tiered system for distributing alcohol. Manufacturers



must first sell to distributors, who then sell to retailers. Only retailers may sell to consumers. However, under the previous law, in-state farm wineries were allowed to apply for a direct shipper's license that enabled them to ship a limited amount of wine directly to consumers. Out-of-state farm wineries could only apply for this license if their home state had allowed West Virginia farm wineries to ship directly to consumers there. This is the part of the law, counsel said, that would have been unconstitutional under the recent federal rulings.

Senate Bill 712, which passed during the 2007 Regular Session and went into effect in early June, tried to address some of these issues while making many other reforms to the state's alcohol laws, counsel said. The bill removes the reciprocity requirement and allows any out-of-state farm winery licensed for direct shipping in its home state to ship a limited amount directly to West Virginia consumers. However, counsel added that the scope of the bill was greatly expanded during the legislative process; as a result, it contains several inconsistencies and might still have some constitutional issues.

Several other speakers spoke to the committee about the state's farm wineries and more broadly about the alcohol distribution system. Counsel for the West Virginia Alcohol Beverage Control Administration addressed some of the other issues with SB712. One of these was whether a farm winery was legally considered an alcohol supplier. Farm wineries must obtain a farm winery license, but counsel said there is some question as to whether they had to obtain a supplier's license. According to counsel, SB712 is unclear on this since it uses inconsistent language. There were also issues of how taxes are assessed and collected.

A representative for the West Virginia Wineries Foundation, which represents 15 of the state's 17 farm wineries, also addressed the committee. The speaker began by saying he felt that the state's reciprocity requirement complied with the federal decisions and that SB712 was unnecessary. The real problems with the existing laws, he said, were high fees for licensure and administrative costs as well as high taxes specific to the sale of alcohol. He recommended an exemption from the liter tax, which is charged based on the volume of wine sold, for farm wineries that produce less than a certain amount per year. He added that the largest farm winery in West Virginia only produces 10,000 to 15,000 gallons per year, while most of the wineries produce less than a 1,000 gallons. Although a gallonage exception to the liter tax would effectively mean only out-of-state wineries pay the tax, the representative said similar laws in other states have never been challenged and meets the requirements set up by the recent federal court cases.

An owner from one of the state's distribution companies talk to members about SB712 and the impact on distributors. He said the bill was too convoluted and ended up hurting distributors. The owner said that best solution would be to completely rewrite the state's alcohol control laws from scratch. The speaker also deflected criticism that distributors do not support direct shipping for farm wineries. He said that farm wineries have little impact on business for distributors, but are important to the state for tourism.

**Judiciary Subcommittee C**

**ABCA**

A brief outline from counsel was given outlining current bar closing times for surrounding states.

Pennsylvania bars must be closed by 3 a.m., Virginia by 2 a.m., Kentucky by 12 a.m., but does have the option to extend till 2 a.m. and Maryland is allowed to establish its own closing time, but maximum closing time is no later than 2 a.m. For West Virginia, bars are to be closed by 3 a.m. and on Saturdays 2:30 a.m.

General Counsel of the WV Alcohol Beverage Control Administration was guest speaker. He spoke further about closing times and retail stores closing times. The ABCA regulates private clubs and taverns. Taverns, serving beer only, must be closed by 2 a.m. Private clubs are allowed to serve liquor, beer and wine. If the club is serving liquor, a license is required and food requirements must be met.

Conversation extended to questions asked about DUI's and bar closing times and relations to customers coming in from other states to take advantage of WV's longer bar times. A state trooper was present and answered questions relating to DUI conviction times relating to bar closing times. Reports from the WV State Police Headquarters will be mentioned at the next meeting.

Questions were also asked about lottery games and drinking. Specifically the Tri-State Racetrack was mentioned. Alcohol sales last until 3:30 a.m. at the racetrack currently. There is no sale from 3:30 a.m. to 7:00 a.m.

**Regional Jail & Correctional Facility Authority,  
Legislative Oversight Committee on**

The Committee heard reports and updates on various aspects of the state jail and prison system, which included the average cost of housing a prisoner, \$4,182 per year.



This is kept under control, in part, by managing the prison health care facilities. Inmates who require long-term health care stay in WV prison facilities instead of going to outside hospitals or care facilities.

The committee went on to discuss that keeping a happy prison population is key to keeping the same one riot-free. Stemming from that are concerns about the commissary and making sure that prisoners are given choices of items to purchase which are based on what they want and what would be good for them, rather than what has the largest profit margins for the distributors. Lawmakers were assured that those items offered are indeed based on these criteria. In response to prisoner complaints that no fresh fruit or vegetables (or fresh garlic as one incarcerated requested) are not offered is because they can go bad in storage, the inmates have no way of extending the duration of these foodstuffs freshness as they are want of refrigeration and finally, that they are also offered as part of the requirements of their daily meals. The representative also added that the average caloric intake of a male inmate is 3,200.

Following what had up to that point been a congratulatory display of the prison system, with several members commenting on how good of a job those involved were doing, including one representative who told the Director he agreed with his philosophical approach to how the prisons should be run, a woman presented to the committee information about her son who had been killed after having been arrested. Saying he had been delivered to the hospital less than 12 hours after his arrest (for an unarrestable offense, she pointed out), he arrived with cracked ribs and a body temperature of 90 degrees but without his medical records. She further reported that after hearing about what had happened, and while her son was still alive, Robert Byrd was unable to secure the medical records for the young man's treatment, despite efforts that went as far as involving Governor Manchin.

She went on to say that the Justice Department has done nothing about this case and wants the committee to be aware of what jails do to everyone incarcerated. Not simply there to discuss her son, and unaffiliated with any organization, she further implored the committee to reevaluate how jails are operated, calling for a "massive rethinking" of how they are approached. It is a waste of money, she said, and harmful to those who are a part of it. Most of the offenses, she went on, are for alcohol and drugs, which are medical and not criminal transgressions.

**Interim Meeting Schedule & Agendas**  
Please visit West Virginia Legislature's Web site:  
<http://www.legis.state.wv.us/committees/interims/intcomsched.cfm>

## State Water Resources, Joint Legislative Oversight Commission on

The committee first heard from counsel who explained the effects of a bill on Code Section 24-2-11e. This bill authorizes the Public Service Commission (PSC) to order the acquisition of failed water and sewer facilities and to appoint other similar utilities they feel are capable of taking over the failed utility to do so. There is still no definition as to what qualifies a utility as being "failed," much to the consternation of heads of Water Associations, Utility Boards, etc., around the state.

The committee next heard from these Directors who echoed each other's sentiments: that giving the PSC this complete sovereignty is a mistake. Several of the utilities which had been termed failing have expressed they felt they could be better served if they were seen rather as struggling and helped instead of being sent into receivership.

When a company is sent into receivership, it is done so at great cost to the utility under whose care it is placed. This cost is then either absorbed by that company or passed along to the consumer. But if more were done to keep the utilities from failing, the presenters opined, it would be better for everyone. Particularly, as one pointed out, because taking on a failing utility might send the receiver into failure on up until there are only a few large water and sewage utilities throughout the state.

Also, a utility is only given the opportunity to start to make a plan for how to deal with the new utility after they have been charged with its takeover. The PSC would be better served to look at why a utility failed and begin to do that by defining in the legislation what it means to have a failed utility.

## Technology, Joint Committee on

During this meeting a representative from the State Purchasing Division was present to inform the committee about the process of state surplus and to answer questions regarding this process. The committee was told the state accepts useable products from all state agencies and those products are then made available to the public.

The committee also discussed that most of the technology equipment in surplus is outdated. They are trying to come up with a workable solution for this because the outdated equipment utilizes significant storage space in surplus that could otherwise be put to better use. Currently, there are approximately 400 computers in surplus that are unusable.



Although the state has a recycling contract with a Morgantown vendor for some electronic parts, a majority of the computers remain in surplus. Also, the speaker noted, state landfills will not accept computers.


### Veterans' Issues - Select Committee B

Members of the Select Committee B heard from representatives of the West Virginia Council of Churches regarding a program they are implementing to make it easier for soldiers coming from war in the Middle East to learn about treatment and other benefits.

The representatives stated that the idea behind their mission is to make sure vital information gets to the eight veterans centers in a faith-based approach. The Council of Churches is working with the Claude Worthington Benedum Foundation in a statewide project that covers pre-deployment, deployment and return. By integrating the community agencies and the churches the project would identify resources to help veterans with stress management, substance abuse prevention and treatment, children's needs and financial aid and counseling. A summit is planned June 11 and 12 in Charleston to get the network started.

One problem disclosed last month by the state Veterans Affairs Director and reaffirmed by the committee is the difficulty in identifying veterans returning from Iraq and Afghanistan.

Toward that end, the committee passed a motion asking the Joint Committee on Government and Finance to approve \$21,558 for a special survey by the Division of Social Work at West Virginia University, which will put up \$5,243 from its budget to a graduate assistant to work 10 hours weekly over the year.

The committee was shown reports and studies showing one in eight soldiers serving in Iraq suffered Post Traumatic Stress Disorder, and that in 2003, of 155 injured soldiers, 62 percent sustained a brain injury. A similar study of the Gulf War revealed women suffered PTSD at twice the rate of men — 16 percent to 8 percent. Four years ago, a Department of Defense study showed almost one-third of a survey of female veterans applying for health care through the Veterans Administration reported they experienced rape or attempted rape while in service. 



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## Interim Committee Information

For information on all Interim Committees, please visit West Virginia Legislature's Web site: <http://www.legis.state.wv.us> and select the "Joint" link.

## Bill Status

For bill history information and full bill text of all Legislation from the 2007 Regular Session, please go to the West Virginia Legislature's Web site: <http://www.legis.state.wv.us> and select the "Bill Status" link.

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July 27 - 29  
August 19 - 21  
September 9 - 11\*  
October 7 - 9  
November 16 - 18  
December 9 - 11  
January 6 - 8, 2008

## 2007-2008 Interim Committee Meeting Dates

**Note:** All dates are subject to change.

\* *Held in Martinsburg, WV*



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